

OVERVIEW
Act 70, SLH 1999

GET Exemption for Exported Contracting or Services; and Use Taxation of Imported Services
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PURPOSE OF ACT 70: The GET exemption for exported services and use tax on imported services levels the playing field for Hawaii businesses and out-of-State businesses and provides parity between the tax treatment of services and property effective January 1, 2000.

GET EXEMPTION FOR EXPORTED CONTRACTING OR SERVICES

➤ **“Unbundled transactions”** qualify for the exemption if the business:

1. Performs **“contracting”** or **“services”** (including professional services) in Hawaii;
2. For a **customer located outside Hawaii**;
3. Where the contracting or services are for **resale, consumption, or use outside Hawaii**;
4. Would otherwise be subject to the GET at 4% on the gross income; and
5. Obtains a certificate from the customer located outside Hawaii certifying that contracting or services will be resold, used, or consumed outside Hawaii.

Ex: Hawaii architect performing design work in Hawaii for a Hong Kong hotel qualifies.

➤ **“Bundled Transactions”** are also exempt if a person performs contracting or services for another person who meets the requirements above.

Ex: Hawaii engineering firm qualifies when a Hawaii architect (purchaser) performing design work in Hawaii for a Hong Kong hotel hires the engineering firm to provide engineering services for the hotel project.

USE TAXATION OF IMPORTED SERVICES

➤ The use tax is imposed on the “value” of services that are performed by an unlicensed seller at a point outside Hawaii and imported or purchased for use in Hawaii. “Value” means the fair and reasonable cash value at the time the use tax accrues.

➤ Analogous to the use taxation of tangible personal property. The tax is imposed at different rates (0%, 1/2%, or 4%) on the importer or purchaser depending upon how the importer or purchaser “uses” (e.g., resells, consumes, etc.) the imported service.

“Use” means any use, whether the use is of such nature as to cause the property or services to be appreciably consumed or not, or the keeping of the property or services for such use or for sale, and shall include the exercise of any right or power over tangible or intangible personal property incident to the ownership of that property. “Use” does not include services imported for resale to a “foreign customer” located outside Hawaii to the extent the services are resold, consumed, or used by that “foreign customer” outside Hawaii. This “foreign customer” exemption is similar to the GET exemption for “bundled” contracting or services.

The use taxation of imported services takes into account to some extent the GET pyramiding relief offered by Act 71, SLH 1999. Note the use of the “identifiable element” and “overhead” tests in Act 70.